

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

FNU SNEHA,

Defendant.

CASE NO. 2:24-cr-00071-TL

ORDER ON MOTIONS

This matter is before the Court on Defendant Fu Sneha's Motions to: (1) Waive Sneha's Attendance; (2) Permit Remote Testimony; (3) Suppress Statements; (4) Exclude Statements of Alleged Coconspirators; and (5) Conduct *In Camera* Review. Dkt. No. 171. Having reviewed the Government's Response (Dkt. No. 179), Defendant's Reply (Dkt. No. 186), and the relevant record, the Court ORDERS as follows:

A. Motion to Waive Sneha's Attendance

Sneha resides in Indianapolis and does not have the means to return to Seattle for the pretrial conference on April 25, 2025. Dkt. No. 171 at 4. The Government does not oppose

1 Sneha's request. Dkt. No. 179 at 3. Accordingly, the Court GRANTS Sneha's request to waive her
2 presence at the pretrial conference.

3 **B. Motion to Suppress Statements**

4 Sneha requests the Court hold a hearing on the admissibility of her statements and the
5 statements of her alleged co-conspirators on the Friday before trial or outside the presence of the
6 jury on the morning of trial as she does not have the means to travel to Seattle before her trial.
7 Dkt. No. 171 at 4.

8 **1. Sneha's Statements**

9 While the Government opposes the motion to suppress, it does not oppose Sneha's
10 request for an evidentiary hearing to determine the admissibility of her post-arrest statements.
11 Dkt. No. 179 at 6. As for the timing of the hearing, Sneha requests the hearing be held either the
12 Friday before or the morning of trial (*Id.* at 1) while the Government requests the hearing be held
13 before or at the pretrial conference on April 25, 2025 (Dkt. No. 190 at 3). Sneha cannot afford
14 the cost of a trip to Seattle, as reflected in the Court's prior order granting her motion for travel.
15 Dkt. No. 175. Given the extremely tight budget constraints of the United States Pretrial Services
16 Office, the Court only ordered the office to arrange and pay for non-custodial lodging during the
17 trial. *Id.* Bringing Sneha to Seattle for another hearing would further and unnecessarily strain the
18 budget of that office. Accordingly, the Court GRANTS Sneha's request for an evidentiary hearing,
19 to be held at 2 p.m. on Friday, May 9, 2025.

20 **2. Statements of Alleged Co-Conspirators**

21 As an initial matter, the Court agrees with the Government (Dkt. No. 179 at 7) that the
22 request to exclude the statements of alleged co-conspirators is more appropriately brought as a
23 *motion in limine*, and, therefore, defense counsel should have consulted with the Government
24 pursuant to Local Criminal Rule 12.7 prior to bringing this (separate) motion. The Government

1 represents that it does not plan to introduce any statement of Sneha’s alleged co-conspirators in
2 its case-in-chief. Dkt. No. 179 at 7. Therefore, the Court DENIES the motion as moot.

3 **C. Motion to Authorize Remote Testimony by Sneha’s Mother**

4 Sneha requests her mother be allowed to testify remotely. Dkt. No. 171 at 6–7. The
5 Government opposes the request because it believes: (1) the mother’s testimony may be
6 introduced to support an affirmative defense for which Sneha has not provided a *prima facie* case
7 (and which is now the subject of a pending *motion in limine* from the Government (Dkt. No.
8 197)); and (2) the mother has the means to travel to Seattle. Dkt. No. 179 at 4–5. If the Court
9 allows Sneha’s mother to testify remotely, the Government requests that she testify via
10 videoconference from a location with reliable internet access and that the Court require the
11 defense to submit “a written description of the procedures [defense] will use to ensure the
12 reliability and trustworthiness of their testimony, jurors’ full ability to evaluate their demeanor,
13 and the efficient presentation of the evidence.” *Id.* at 6 (quoting *United States v. Pritchard*, No.
14 23-232-001, 2024 WL 4347815, at *1 (D. Ariz. Sept. 30, 2024)). On reply, defense counsel
15 asserts that Sneha’s mother may provide testimony regarding her character. Dkt. No. 186 at 2.
16 Defense counsel further asserts that Sneha’s family’s financial circumstances have changed in
17 that her father has become disabled, so Sneha now supports her parents and two young siblings.
18 *Id.*

19 “In every trial the testimony of witnesses must be taken in open court, unless otherwise
20 provided by a statute or by rules adopted under 28 U.S.C. §§ 2072–2077.” Fed. R. Crim. P. 26.
21 As a general rule, in “both the constitutional principles and the rules of evidence is a preference
22 for live testimony.” *United States v. Yida*, 498 F.3d 945, 950 (9th Cir. 2007). However, the
23 “‘core’ of the Confrontation Clause guarantee” that is at the heart of this issue is “providing the
24 *accused* an ‘opportunity to challenge his accuser in a face-to-face encounter in front of the trier

of fact.’” *United States v. Carter*, 907 F.3d 1199, 1206 (9th Cir. 2018) (emphasis added) (quoting *California v. Green*, 399 U.S. 149, 156–57 (1970)). Therefore, witnesses have been allowed to testify remotely in certain circumstances at the request of a defendant. *See United States v. Swisher*, 360 F. App’x 784, 786 (9th Cir. 2009) (holding rights under the Confrontation Clause were not violated when the district court judge permitted a defense witness unable to appear in person to testify via telephone at defendant’s request).¹

Assuming the accuracy of defense counsel’s representations regarding Sneha’s parents’ change in financial circumstances and the ability of defense counsel to contract with a reliable, professional teleconferencing service for the testimony of Sneha’s mother, the Court is inclined to grant Sneha’s request. However, the Court will RESERVE ruling at this time until Sneha provides an affidavit or other evidence supporting her counsel’s representations, *see* Local Criminal Rule 12(b)(1),² and defense counsel provides further written confirmation of the procedures and service that will be used to ensure the reliability and trustworthiness of the remote testimony by Sneha’s mother. The decision will, of course, also be subject to any ruling on the pending motion *in limine* with regard to the testimony of Sneha’s mother.

D. Motion for Review of Co-Defendants’ Presentence Reports

Based upon information revealed at co-defendant Sushil Kumar’s sentencing, Sneha requests the Court review the presentence reports of co-defendants Sushil Kumar, Bobby Green, and Rajat Rajat for discoverable *Brady* evidence that could be useful for Sneha at trial or

¹ Further, the Ninth Circuit has held that “a defendant’s right to ‘physical, face-to-face confrontation at trial’ may be compromised by the use of a remote video procedure only upon a ‘case-specific finding’ that (1) the denial of physical confrontation ‘is necessary to further an important public policy,’ and (2) ‘the reliability of the testimony is otherwise assured.’” *Carter*, 907 F.3d at 1208 (quoting *Maryland v. Craig*, 497 U.S. 836, 850, 857 (1990)).

² Local Criminal Rule 12(b)(1) states that where a motion “requires the consideration of facts not appearing of record, the movant shall also serve and file copies of all affidavits and photographic or documentary evidence presented in support of the motion.”

1 sentencing or *Giglio* material that could be used to impeach any person. Dkt. No. 171 at 7–8. The
2 Government does not oppose Sneha’s request. Dkt. No. 179 at 8.

3 Accordingly, the Court GRANTS Sneha’s request. With regard to the presentence reports
4 produced to the Court to date, the Court ORDERS the Government to provide to Sneha the
5 following: (1) a redacted copy of Mr. Kumar’s presentence investigation report (Dkt. No. 152)
6 that only reveals the section entitled “The Offense Conduct” (*i.e.*, ¶¶ 11–19) as well as ¶ 45,
7 including footnote 3; and (2) a redacted copy of Mr. Green’s presentence investigation report
8 (Dkt. No. 146) that only reveals the section entitled “The Offense Conduct” (*i.e.*, ¶¶ 12–20) as
9 well as ¶ 64. The Court will supplement this Order, if appropriate, once it receives and reviews
10 the presentence investigation report for Mr. Rajat. The Court will further ORDER that the
11 complete presentence reports of the co-defendants be made part of the Court’s sealed record
12 should an appeal be made.


13 **E. Conclusion**

14 Accordingly, the Court ORDERS as follows:

- 15 1. The Court GRANTS Defendant’s request to waive her presence at the pretrial
16 conference.
- 17 2. The Court GRANTS Defendant’s request for an evidentiary hearing and SETS the
18 hearing for 2 p.m. on Friday, May 9, 2025.
- 19 3. The Court DENIES AS MOOT Defendant’s request to exclude the statement of
20 alleged co-conspirators.
- 21 4. The Court RESERVES RULING until the pretrial conference on Defendant’s request
22 to allow her mother to testify remotely. Defense counsel SHALL submit any
23 evidence supporting this request **by April 23, 2025.**
- 24 5. The Court GRANTS Defendant’s request for an *in camera* review of her co-
defendants’ presentence investigation reports for *Brady* and *Giglio* material. The
Government SHALL produce to Defendant copies of the reports for Mr. Kumar and
Mr. Green redacted consistent with this Order **by April 10, 2025.**

6. The Court ORDERS that the complete presentence reports of the co-defendants be made part of the Court's sealed record should an appeal be made.

Dated this 8th day of April 2025.


Tana Lin
United States District Judge